

1 Matthew B. Lehr (Bar No. 213139)
2 Suong T. Nguyen (Bar No. 237557)
DAVIS POLK & WARDWELL
1600 El Camino Real
3 Menlo Park, California 94025
Telephone: (650) 752-2000
4 Facsimile: (650) 752-2111

5 Attorneys for Plaintiff
VNUS Medical Technologies, Inc.

6 (additional counsel on signature page)

7 UNITED STATES DISTRICT COURT

8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 SAN FRANCISCO DIVISION

10 VNUS MEDICAL TECHNOLOGIES, INC.,) CASE NO. C05-02972 MMC (JL)
11 Plaintiff,)
12 v.)
13 DIOMED HOLDINGS, INC., DIOMED)
14 INC., ANGIODYNAMICS, INC., and)
VASULAR SOLUTIONS, INC.,)
15 Defendants.)
16)
17)
18)

**[PROPOSED] ORDER AND JOINT
STIPULATION OF DISMISSAL OF
DEFENDANTS DIOMED HOLDINGS,
INC. AND DIOMED INC.**

19 The parties hereby stipulate, by and through their respective counsel, that defendants
20 Diomed Holdings, Inc. and Diomed Inc. (together, "Diomed") be dismissed with prejudice from
21 this action pursuant to Federal Rule of Civil Procedure 41(a)(1). The parties further stipulate to the
22 dismissal with prejudice, pursuant to Federal Rule of Civil Procedure 41(c), of the counterclaims
23 asserted by the Diomed defendants against plaintiff VNUS Medical Technologies, Inc. Each party
24 will bear its own costs and attorneys' fees.

25 Since Diomed was the sole remaining defendant in this action following the dismissal of
26 defendants AngioDynamics, Inc. and Vascular Solutions, Inc. by order dated June 6, 2008 (D.I.
27 646), the parties request that the Court enter an order closing the action for all purposes.

1 Dated: October 23, 2008

ATTORNEYS FOR PLAINTIFF
VNUS MEDICAL TECHNOLOGIES, INC.

2
3 /s/ Matthew B. Lehr
4 Matthew B. Lehr (Bar No. 213139)
5 Diem-Suong T. Nguyen (Bar No. 237557)
6 DAVIS POLK & WARDWELL
7 1600 El Camino Real
Menlo Park, CA 94025
(650) 752-2000/(650) 752-2111 (fax)
mlehr@dpw.com
nguyen@dpw.com

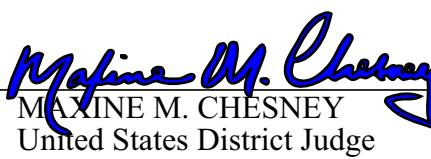
8 Dated: October 23, 2008

9
10 ATTORNEYS FOR DEFENDANTS
11 DIOMED HOLDINGS, INC. and DIOMED,
12 INC.
13
14

15
16 /s/ Michael A. Albert
17 Michael A. Albert
18 Michael N. Rader
19 WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
(617) 720-3500/(617) 720-2441 (fax)
mrader@wolfgreenfield.com

20
21
22
23
24
25
26
27
28
PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: October 27, 2008


MAXINE M. CHESNEY
United States District Judge